

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement"), effective as of the last date of execution below ("Effective Date"), is made by and between California River Watch, a nonprofit corporation, on behalf of itself and its members ("CRW"), and Soiland Co., Inc. ("Soiland"). CRW and Soiland are sometimes hereinafter each referred to as a "Party" or collectively as the "Parties."

RECITALS

A. California River Watch ("CRW") is a 501(c)(3) nonprofit, public benefit corporation organized under the laws of the State of California, dedicated to protect, enhance, and help restore the surface waters and groundwater including all rivers, creeks, streams, wetlands, vernal pools and tributaries of California.

B. Soiland operates the Grab N' Grow compost facility on property owned by Soiland, located at 2959 Llano Road in Santa Rosa, California ("Site"). The Site is subject to various federal and state regulatory requirements under the federal Clean Water Act ("CWA"), including its determination that it will comply with the State Water Resource Control Board's General Industrial Activities Storm Water Permit ("General Permit").

C. On January 16, 2014, CRW served Soiland with a 60-Day Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act ("Notice Letter"), alleging various violations of the CWA relating to activities at the Site. The Notice Letter alleges that the owner, operator, and site manager are responsible for the alleged violations.

D. Soiland denies all of CRW's allegations that it is liable to CRW for any claims that were, or could have been asserted against Soiland based upon the Notice letter.

E. The Parties have expended effort and resources in investigating and evaluating allegations and claims set forth in the Notice Letter, including the exchange of information regarding the Site, as well as engaging in a negotiation and technical dialogue regarding settlement.

G. The Parties now wish to resolve and settle all disputes, obligations, and purported or actual claims or causes of action, which may exist by and between CRW and Soiland, including without limitation any disputes, obligations, claims and/or causes of action that were or could have been asserted in or pursuant to the Notice Letter relating to the Site.

NOW, THEREFORE, in consideration of the execution of this Agreement and the releases, satisfactions and promises made herein, it is hereby agreed upon by the Parties as follows:

TERMS AND CONDITIONS

1. Parties Bound By This Agreement and Length of Agreement. This Agreement, and each of its provisions, including all representations, warranties, and promises contained herein, binds, and inures to the benefit of CRW and Soiland, and each of their respective assigns, present and future affiliates, parents, subsidiaries, predecessors and successors in interest whether by merger, consolidation, or otherwise, as well as their respective representatives, agents, and administrators, past, present, and future. The "Effective Date" is the last date on which the signature of a Party to this Agreement is executed, and the "Termination Date" is the date that all of the requirements under Sections 2 and 3 are finished by Soiland, or two years after the "Effective Date," whichever occurs first.

2. Actions By Soiland. In exchange for the delivery, execution, and performance of this Agreement and of the Release by CRW as provided herein, Soiland shall perform the below specified projects at the Site. Soiland reserves the right, in its sole discretion, to determine (i) which persons shall perform any work described herein, including contractors; and (ii) the scope and technical details of, and manner to implement, any such work, subject to review and approval by the Regional Water Quality Control Board (or such other regulatory agency as may, from time to time, exercise jurisdiction with respect to environmental matters at the Site):

2.1. Obtain Coverage under an Individual NPDES Industrial Stormwater Permit

2.1. Comply Strictly With the Term and Conditions in the General Permit Through Preparation and Implementation of a Revised SWPPP and Monitoring Plan Soiland, which obtained coverage and is currently regulated under the General Permit, shall update its Storm Water Pollution Prevention Plan ("SWPPP") for the entire Site and implement it consistent with the requirements in new General Permit 2014057-DWQ (effective July 1, 2015) on or before June 1, 2015. Soiland shall provide a copy of the updated SWPPP to CRW for review within sixty (60) days after preparation. The SWPPP shall, in addition to any other provisions, include the following:

2.1.a. - Provisions ensuring the SWPPP conforms to applicable provisions contained in (i) *Stormwater Best Management Practice Handbook* California Stormwater Quality Association January 2003 (attached) and (ii) Best Management Practices ("BMPs") detailed in the EPA's "Industrial Stormwater Fact Sheet Series, Sector: Chemical and Allied Products Manufacturing and Refining Facilities" (EPA Office of Water, EPA-833-F-06-018, Dec. 2006); www.epa.gov/npdes/pubs/sector_c_chemical.pdf).

2.1.b. - An aerial map with a detailed overlay of the Site with notes, legends, and other data as appropriate to ensure that this site map is clear and understandable and includes the following information, as applicable: Soilands's boundaries; outline of all stormwater drainage areas; portions of the drainage area impacted by run-on from surrounding areas; direction of flow of each drainage area; nearby water bodies; stormwater collection and conveyance system, associated points of discharge, and flow direction; structural control measures that affect stormwater discharges; locations of all catch basins; location of authorized non-stormwater discharges to the storm drain; outline of all impervious areas; locations where materials are directly exposed to precipitation; locations where significant spills or leaks have occurred in the last five (5) years; areas of industrial activities; monitoring locations; and the location of buildings and key surface facilities, including buildings and or activities that may be sources of non-stormwater discharges to the stormwater system such as process wastewater or wash water.

2.1.c.- A narrative description of the information on the Site map and the operation of the facility's industrial activities, detailing both structural and non-structural BMPs that have been implemented and will be conducted to reduce pollutants in any discharges that exceed EPA Benchmarks to below EPA Benchmarks for these pollutants. These BMPs include, but are limited to,"

- Covering all materials not within the Site's bermed areas during rain events;
- Preventing any spillage over the sides of the Site's berm into uncontaminated areas, or promptly cleaning up any spillage that does occur;
- Eliminating discharge tubing within the Site's bermed areas;
- Eliminating, capping, or otherwise preventing any overflow from the Site's pond(s); and
- Washing trucks leaving the Site at the scales or as close to the Site's exit as possible.

2.1.d. - Provisions requiring the collection of two wet weather samples of qualifying rain events through all discharging outfalls on the Site. For the sake of clarification, the land application of detained stormwater performed in accordance with the September 2011 *Stormwater Management Feasibility Study and Interim Operations Plan* are not subject to the sampling provisions listed below:

- pH, Total Suspended Solids (TSS), Specific Conductance (SC), Total Organic Carbon (TOC) or oil and Grease (O&G); and
- Table D parameters - Iron (Fe), N+N (Nitrate & Nitrite Nitrogen), Lead (Pb), Zinc (Zn), and Phosphorus.

2.2. Submission of Additional Reports to CRW To the extent that annual or other

monitoring reports are not otherwise uploaded to and made available on the Regional Water Quality Control Board's stormwater database, Soiland agrees to provide CRW with a copy of any reports (e.g., monitoring reports) concerning matters addressed in this Agreement. Soiland may furnish copies of any such reports to CRW in either hard copy or digital form.

2.3. Compliance with Requirements of NCRWQCB In addition to the foregoing, Soiland will comply with the requirements of the North Coast Regional Water Quality Control Board set forth in its letter to Mark Soiland dated September 8, 2014, a copy of which is attached to this agreement as Exhibit.

3. Fees and Costs. Soiland shall pay to CRW the total sum of Twenty Thousand Dollars (\$20,000.00). Payment will be made within forty-five (45) days after the Effective Date of this Agreement. Payment shall be made in the form of a single check, made payable to "California River Watch," and mailed to the Law Office of Jack Silver, P.O. Box 5469, Santa Rosa, CA 95402-5469.

4. Actions by California River Watch.

4.1 Within five (5) business days after the Effective Date of this Agreement, CRW shall provide the federal District Court for the Northern District of California in Case No. 4:14-cv-02314 KAW with a Notice of Settlement, and shall submit this Agreement to the United States Department of Justice ("DOJ") for the statutory 45-day agency review period set forth in 33 U.S.C. §1365(c).

4.2 Within five (5) business days after the expiration of the agency review period discussed in Section 4.1, CRW shall file with the federal District Court a Notice of Dismissal whereby the Complaint and all claims therein shall be dismissed with prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

5. Mutual Release. It is the intent of the Parties that the execution and delivery of this Agreement constitutes a full and complete satisfaction of all rights, claims and demands by CRW against Soiland, and Soiland against CRW, with respect to any and all allegations and claims made in the Notice Letter under the Clean Water Act. CRW and Soiland, on behalf of itself and any and all of its agents, representatives, successors, members, and assigns, does hereby absolutely, fully, and forever release, relieve, remise, and discharge Soiland and CRW, respectively, and its past and present employees, officers, directors, attorneys, and the predecessors, successors, and assigns of any of them, from any and all causes of action, claims, damages (including punitive damages), demands, debts, actions, attorneys' fees, costs of suit, and liabilities of every kind or nature whatsoever, arising out of claims asserted in the Notice Letter under the Clean Water Act concerning the Site. The release provided for herein shall be valid and effective whether the claims, causes of action, or liability hereby released *(i)* are known or unknown, suspected or unsuspected, *(ii)* are based in contract, tort, statute, or otherwise, or *(i)* arise at law or in equity. This release shall survive the termination of this Agreement, whether by satisfaction of the terms and conditions hereof or operation of law.

Further, the parties acknowledge that they are familiar with Section 1542 of the California Civil Code. For any other claims against each other, known or unknown, suspected or unsuspected, and each party expressly waives and relinquishes any rights and benefits which they have or may have under Section 1542 of the Civil Code of the State of California, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor.

The Parties acknowledge that each has specifically reviewed with its attorney the meaning and effect of the release set forth herein, the language of California Civil Code Section 1542, and the waiver contained herein. The Parties acknowledge that their attorneys have fully explained the impact of these provisions, and the Parties knowingly accept the risks associated with these provisions.

6. No Admission. This Agreement is the direct result of a compromise of disputed allegations and claims. As such, this Agreement shall not, for any purpose, be considered as an admission of liability by Soiland, nor shall the payment of any sum of money in consideration for the execution of this Agreement constitute or be construed as an admission of any liability by Soiland, which expressly denies any such liability or wrongdoing.

7. Delays in Schedule Implementation. In the event implementation by Soiland of the remedial measures set forth in Section 2 of this Agreement does not occur by the agreed to dates despite the timely good faith efforts of Soiland to acquire any necessary approvals and/or permits, or due to factors unforeseen at the time this Agreement was entered into, Soiland agrees to notify CRW in writing as soon as practicable after the anticipated delay becomes apparent, and in any case except in a case of force majeure described below, not less than twenty (20) days prior to any deadline set forth in Section 2, and shall describe the reasons for the anticipated delay.

8. Force Majeure. Soiland shall not be deemed in default or breach of this Agreement by reason of any event which constitutes a force majeure. For purposes of this Agreement, a force majeure is defined as any event arising from causes beyond the reasonable control of Soiland or its contractors that delay or prevents performance. This includes, without limitation, acts of God, acts of war, acts of terrorism, fire, explosion, extraordinary weather events, restraint by court order or public authority, or other causes beyond Soiland's reasonable control. Neither increased costs nor economic hardship shall constitute a force majeure.

9. Breach of Agreement and Dispute Resolution. Any disputes between CRW and Soiland concerning any alleged breach of this Agreement, except for Soiland's obligation to make timely payment under Section 3 of this Agreement, shall be subject to the following dispute resolution procedures. Failure to satisfy the payment condition in Section 3 is a substantial breach of this Agreement and relieves CRW of its obligations under this Agreement.

9.1. Good Faith Negotiations. CRW and Soildand shall make good faith efforts to resolve informally any alleged breach of the Agreement. If informal efforts to resolve the alleged breach are unsuccessful, that Party shall provide written notice of the alleged breach and that Party's intent to initiate the dispute resolution procedure of this Section 8. The notice shall include a recitation of all facts and circumstances giving rise to the dispute, including the particular provisions of the Agreement alleged to have been breached.

9.2 Mediation. If the dispute is not resolved by the Parties within thirty (30) days after such notice is given, such dispute shall be submitted to mediation before a mutually agreeable neutral mediator. The Parties shall each bear their own costs and attorney's fees incurred in connection with such mediation.

9.3 Arbitration. If, and only if, the dispute cannot be resolved by the Parties pursuant to the above mechanisms, such dispute shall be submitted for binding arbitration before a mutually agreeable neutral arbitrator. In the event that binding arbitration occurs, the Parties agree that no discovery shall be permitted. Briefing will be limited to one brief of no longer than ten (10) pages for each Party, submitted no later than fourteen (14) days before the scheduled arbitration hearing. The arbitration hearing is limited to a maximum of one (1) day. The determination of the arbitrator shall be binding upon the Parties. Within thirty (30) days after the conclusion of the arbitration hearing, the arbitrator shall issue a written award and a written statement of decision describing the reasons for the award, including the calculation of any damages awarded. The non-prevailing Party shall bear the cost of the arbitrator's fees. Otherwise, the Parties shall each bear their own costs and attorney's fees incurred in connection with such binding arbitration. Judgment upon any determination rendered by the arbitrator may be entered by any court having competent jurisdiction.

9.4. Waiver. By agreeing to these dispute resolution provisions, including the binding arbitration provision, the Parties understand that they are waiving certain important rights and protections that otherwise may have been available to each of them if a dispute between them were determined by a judicial action including, without limitation, the right to a jury trial, and certain rights of appeal. Other than the remedies contained within this Agreement including dispute resolution and specific performance of the terms of this Agreement, there are no other remedies. The Parties specifically agree that there is no basis within this Agreement or within the contemplation of the Parties to support a claim for consequential damages due to any form of breach.

10. Notices. All notices, consents, approvals, requests, demands and other communications (collectively, "Notice") which the Parties are required or desire to serve upon or deliver to the other Party shall be in writing and shall be given by nationally- recognized overnight courier, by certified United States mail, return receipt requested, postage prepaid, addressed as set forth below, or by facsimile or electronic mail addressed as set forth below:

If to CRW: Jack Silver, Esq.
Law Office of Jack Silver
P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel: (707) 528-8175
Email: lhm28843@sbcglobal.net

If to Soiland: Clay Clement, Esq.
Clement, Fitzpatrick & Kenworthy
3333 Mendocino Avenue / Suite 200
Santa Rosa, CA 95403
Tel: (701) 568-2202
Email: cclement@cfk.com

The foregoing addresses may be changed by Notice given in accordance with this Section 9. Any Notice sent by mail shall be deemed received two (2) days after the date of mailing. Any Notice sent by facsimile shall be deemed received upon electronic confirmation of the successful transmission thereof, and any Notice sent by electronic mail shall be deemed received upon electronic transmission thereof provided sender does not receive electronic notice of non-delivery. Any Notice sent by overnight courier service shall be deemed received on the day of actual delivery as shown by the confirmation of delivery by the messenger or courier service. If the date of receipt of any Notice to be given hereunder falls on a weekend or legal holiday, then such date of receipt shall automatically be deemed extended to the next business day immediately following such weekend or holiday for purposes of calculating time periods commencing upon the date of service.

11. Attorneys' Fees. Other than the payment to CRW under Section 3 and subject to the prevailing party provisions under Section 8.3 of this Agreement, each Party shall bear its own past and future attorneys' fees and costs relating to the subject matter of this Agreement.

12. Parties' Acknowledgment of Terms. This Agreement has been carefully and fully read and reviewed by CRW and Soiland and their respective counsel, if any, who hereby represent that the contents of this Agreement are understood, and agree that this Agreement is binding on each Party or its respective predecessors, successors, and assigns and as described above.

13. Interpretation and Applicable Law. This Agreement shall be construed and interpreted in accordance with the laws of the United States and the State of California without regard to principles of conflicts of law. This Agreement shall be interpreted and construed as a whole, according to its fair meaning and not strictly for or against any Party, and without regard to which Party drafted the Agreement. All of the promises, representations, and warranties contained in this Agreement survive the execution of this Agreement.

14. No Assignments. Each Party to this Agreement represents and warrants that it has not

assigned, transferred, hypothecated, or sold to any third person or entity, any of the rights or obligations released by or entered into under this Agreement.

15. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall evidence one and the same agreement.

16. Headings. The headings used in this Agreement are for convenience of reference and shall not be used to define any provision.

17. Entire Agreement In Writing. This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter set forth herein and supersedes all previous or contemporaneous negotiations, commitments (oral or written), and writings with respect to the subject matter set forth herein.

18. Modification or Amendment. This Agreement or any of its provisions may be modified or amended only by written agreement executed by all Parties to this Agreement.

19. Severability. The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision. If, in any action before any court or other tribunal of competent jurisdiction, any term, restriction, covenant, or promise is held to be unenforceable for any reason, then such term, restriction, covenant, or promise shall be deemed modified to the extent necessary to make it enforceable by such court or other tribunal and, if it cannot be so modified, that this Agreement shall be deemed amended to delete herefrom such provision or portion adjudicated to be invalid or unenforceable, and the remainder of this Agreement shall be deemed to be in full force and effect as so modified. Any such modification or amendment in any event shall apply only with respect to the operation of this Agreement in the particular jurisdiction in which such adjudication is made.

20. Representations and Warranties. This Agreement is given voluntarily, free of undue influence, coercion, duress, menace, or fraud of any kind. No Party, nor any officer, agent, employee, representative, or attorney of or for any Party, has made any statement or representation to any other Party regarding any fact relied upon in entering this Agreement, and no Party is relying upon any statement, representation, or promise of any other Party, nor of any officer, agent, employee, representative, or attorney of or for any Party, in executing this Agreement or in making the settlement provided herein, except as expressly stated in this Agreement.

21. No Third Party Beneficiaries. This Agreement is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Agreement for any cause whatsoever. Subject only to the express restrictions contained in this Agreement, all of the rights, duties and obligations contained in this Agreement shall inure to the benefit of and be binding upon the Parties, and their successors and assigns.

22. Authority. Each of the persons signing this Agreement on behalf of an entity represents and warrants that he or she has actual authority and capacity to execute this Agreement on behalf of the entity and to bind it to all of the terms of this Agreement.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their duly authorized representatives.

SOILAND CO., INC.

By: _____

Owner/Operator

Dated: October 2, 2014

CALIFORNIA RIVER WATCH

By: _____

Larry Hanson
Board President

Dated: October 04, 2014

North Coast Regional Water Quality Control Board

September 3, 2014

Mr. Mark Soiland
Grab n Gro
2759 Llano Road
Santa Rosa, CA 95407

Subject: Request for Revised Monitoring and Reporting Program

File: Grab n Gro, Llano Road, Santa Rosa, CA; Industrial Storm Water Permit

Dear Mr. Soiland:

Recently, we inspected the Grab n Gro facility with your staff and Chris Watt from LACO and Associates. The purpose of the inspection was to review the storm water sampling locations, discuss the data gathered over the last two years, and discuss future monitoring options.

After discussions, we decided on the following approach.

1. The composting operation will remain within the industrial storm water program. Since the current Industrial Storm Water Permit includes limits to protect, or assess, ground water pollution, the land application of wastewater will be considered internal to the compost operations. A ground water monitoring program will be necessary to sample and assess the impacts to ground water. The monitoring plan should present an irrigation program based on agronomic needs of the crops grown, assessing the nitrogen needs of the crops and tracking waste water application rates, and calculating nitrogen allowed vs nitrogen applied, on a monthly basis. To avoid runoff of irrigated water, the irrigation program should also consider current moisture content of the soil prior to irrigation.

Sample locations should be established where runoff from the irrigation field enters Windmill Creek. These location(s) will be considered the offsite discharge points under the Industrial Storm Water Permit. The monitoring plan should call for visual inspection of these areas during, or after, storms, noting the flow, if any, and establish a

JOHN W. CORBETT, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

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EXHIBIT TO SETTLEMENT AGREEMENT BETWEEN
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sampling frequency. Since Windmill Creek may be impacted from runoff upstream of the facility we recommend that the offsite sampling program include up and down stream samples from Windmill Creek to assess impact to the Creek from any offsite discharge. In-stream sampling would only occur in the event there is a discharge from your facility.

2. The offsite discharge location for the retail sales area should continue to be sampled, albeit on a less frequent basis than occurred in the past. Offsite samples location(s) to assess changes before, and potentially after, the discharge reaches Windmill Creek are recommended. Please consider redirecting this runoff across the access road and along the edge of the field to provide extra biological treatment. We continue to recommend improvements to the retail sales area to reduce the potential for pollutants to leave the facility. Pending further review, the potential to include this area into the Industrial Storm Water Permit remains a possibility.

To accomplish these tasks, the Regional Water Board is requesting that your facility revise the Monitoring and Reporting portion of the current Storm Water Pollution Prevention Plan. Please provide this revised Plan to our office by October 1, 2014. If this date needs to be modified, please contact our office as soon as possible.

If you have any questions, please contact Paul Keiran at (707) 576-2753 or Paul.Keiran@waterboards.ca.gov or me at Rick.Azevedo@waterboards.ca.gov or (707) 576-2679.

Sincerely,



for: Richard Azevedo
Associate Engineer

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cc: Chris Watt, LACO and Associates, 3450 Regional Parkway, Suite B2,
Santa Rosa, CA 95403

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